THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.18988 of 1995

Dated:01-02-2007

Between:-

The Management of Palace Heights Restaurant,
Triveni Complex, Abids, Hyderabad-1.

..Petitioner

And

T. Arjuna Rao, Plot No.48, Kharkhana,
Suryanagar, Secunderabad and another.

..Respondents.

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:O R D E R:

This writ petition is filed challenging the award dated 17-05-1995 in I.D.No.360 of 1989 on the file of Labour Court-I, Hyderabad.

In this writ petition, the management is the petitioner, while respondent No.1 is the workman. It appears, the first respondent raised a dispute under Section 2-A (2) of the Industrial Disputes Act, 1947 (for short 'the Act') to set aside the order of his termination dated 23-02-1989 issued by the petitioner herein.

It was the case of the first respondent-workman that he joined the services of the petitioner-management as a Waiter on 16-02-1988 and since then he worked in the hotel continuously without any blame till his oral termination. His termination is without any notice and without conducting any inquiry. Therefore, the same is arbitrary and illegal. Since the workman happened to be a member of Hyderabad Hotel Mazdoor Sangh and tried to form a union in the petitioner establishment to safe guard the rights and interest of the workers of the petitioner-Management, the services of the respondent-workman were terminated.

The petitioner-management filed counter opposing the application filed under Section 2-A (2) of the Act. It was stated that the workman worked as Waiter in the petitioner-management and he was charge

sheeted for certain misconduct by memo dated 03-04-1989. It was alleged that on 24-02-1989 when one Purnachandra Rao with his family members visited the restaurant and after the dinner and after paying the bill of Rs.195-00, Purnachandra Rao left the tip for the employee i.e., Rs.5-00, the respondent-workman behaved discourteously towards them. The employee-respondent passed extremely derogatory remarks against the customer and thereby created unpleasant scene in the restaurant. This incident and the remarks made by the employee, drawn the attention of all the customers who came to the hotel and created embarrassment to Purnachander Rao and lowered the reputation of the petitioner-restaurant in the eyes of the customers. Further, Purnachander Rao reported the matter to A. Rajan, Manager of the restaurant; and on learning the name of the respondent, Purnachander Rao lodged a written complaint against the petitioner; that when Purnachander Rao came to the ground-floor with his family, the 1st respondent rushed to their car, abused him in filthy language and manhandled him in the presence of his family members. Only after intervention of the watchman of the restaurant, the respondent stopped manhandling of Purnachander Rao. Further, the respondent went back shouting at the customers that he would break his legs for lodging the complaint. Thereafter, the respondent absconded from duty in a desperate effort and to avoid the evil consequences of mis-conduct, the respondent sent letter dated 25-02-1989 to the petitioner management alleging termination

of services by the management, which, in fact, is a false one. Purnachandra Rao lodged a criminal complaint on 01-03-1989 against the respondent with the Inspector of Police, Abids, Hyderabad.

Whereas the learned counsel for the 1st respondent supported the award passed by the labour court and submitted that the labour court, in the facts and circumstances of the case, has rightly come to the conclusion that the respondent is entitled for compensation as awarded by it. The labour court has not committed any illegality calling for interference of this court under Article 226 of the Constitution of India. It is the case of the respondent that without conducting any enquiry, imposing penalty is contrary to the rules, apart from being violative of principles of natural justice and therefore the Labour Court has rightly held that the respondent is entitled for compensation in lieu of reinstatement.

I have given my earnest consideration to the respective submissions made by either counsel and perused the impugned award and other material made available on record.

At the outset, I am of the opinion that the labour court has not committed any error calling for interference under Article 226 of the Constitution of India. This is a case where the 1st respondent, no doubt, behaved with the customer in a manner which is unwarranted and the customer filed a complaint both with the management as well as police and according to the evidence available on record, the respondent-

workman not only used filthy language against the customer, but also tried to manhandle the customer; that when a complaint was lodged by the customer and when he was coming down to the ground floor, the respondent rushed to their car, abused him in filthy language and manhandled the customer in the presence of his family members. Only on the ground that no detailed inquiry was conducted, the labour court came to the conclusion that the termination of the respondent is not proper. However, since the relationship between the respondent and the petitioner-Management was not cordial and even if reinstatement was ordered, it would be very difficult for the employee to work in the restaurant as the management is apprehending that the employee is of quarrelsome nature and degraded the reputation of the hotel, the labour court directed that in lieu of re-instatement of the respondent, ten (10) months salary be paid as compensation. Thus, the award was passed directing the management-petitioner to pay one month notice pay, pay half of the monthly salaries from 22-02-1989 to
17-05-1995 towards backwages and also ten (10) months salary towards compensation in lieu of reinstatement.

I am of the opinion that the labour court has not committed any error, in the facts and circumstances of the case, directing payment of half salary for the period from 22-02-1989 to 17-05-1995 and also directing payment of ten months salary towards compensation in lieu of the reinstatement, apart from one month’s notice pay. The writ petition is devoid of merits and is liable to be dismissed.

Accordingly, the writ petition is dismissed. There shall be no orders as to costs.

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C.V.
RAMULU, J

Dated: 01-02-2007.
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